

MAY 18 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

RICHARD L. PICKETT,

Plaintiff - Appellant,

v.

TERRY L. STEWART, sued in individual
& official capacity; et al.,

Defendants - Appellees.

No. 05-15791

D.C. No. CV-02-01773-MHM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Mary H. Murguia, District Judge, Presiding

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Arizona state prisoner Richard L. Pickett appeals pro se from the district court's summary judgment in favor of prison officials in his 42 U.S.C. § 1983

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

action alleging violations of the First Amendment. We have jurisdiction pursuant to 28 U.S.C. § 1291. We affirm.

Because Pickett's opening brief does not challenge the district court's summary judgment in favor of prison officials, he has waived the right to challenge that portion of the district court's March 31, 2005 order. *See Indep. Towers of Washington v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003).

The district court did not abuse its discretion in denying Pickett's motion to reconsider because he failed to demonstrate mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, or any other basis for relief from judgment. *See Sch. Dist. No. 1J, Multnomah County v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993).

AFFIRMED.